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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,486	09/08/2003	Peter Spielberger	SPIEL/SMARTCOP PA	2014
7590 06/28/2006			EXAMINER	
CHARLES C. LOGAN II 8282 UNIVERSITY AVENUE LA MESA, CA 91941			VANTERPOOL, LESTER L	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 06/28/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/658,486	Applicant(s) SPIELBERGER, PETER	
	Examiner Lester L. Vanterpool	Art Unit 3727	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, & 11-14 is/are rejected.
- 7) ☒ Claim(s) 2 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: reference characters #67 and #94 in Figures 1 – 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities:  
Specification page 10, line 2 recites reference character number #53 as “the moveable locking pin”.

However, the specification, page 9 reference character #53 has been multiple and previously identified as –the moveable retention pin--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. Examiner notes applicant is evoking 35 U.S.C. 112, 6<sup>th</sup> paragraph in claim 1, line 15 by reciting: “means for” supporting said retention pin and ...

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tilley (U.S. Patent Number 5449103). Tilley discloses the tubular assembly comprising (14): the elongated first structure (See Figure 2) that functions as the left side wall (See Figure 2) having the outer surface (18) the inner surface (16) and the top end (See Figure 2); the elongated second structure (See Figure 2) that

functions as the right side wall (See Figure 2) having the outer surface (18), the inner surface (16) and the top end (See Figure 2); the elongated third structure (See Figure 2) that functions as the front wall (20) having the outer surface (18), the inner surface (16) and the top end (See Figure 2); and the fourth structure (See Figure 2) that functions as an elongated rear wall (22) having the outer surface (18), the inner surface (16) and the top end (column 1, lines 60 – 63) (See Figure 1);

the top end (See Figure 2) of the fourth structure (22) (See Figure 2) is downwardly displaced (See Figures 1 & 2) from the top end of the first structure (See Figure 2) and the top end of the second structure (See Figure 2) to form the recess to capture the trigger guard of the handgun (12) (See Figure 1);

the elongated retention pin (46) (See Figures 2 & 4) having the inner end, the outer end (See Figure 2), surrounding side walls (See Figure 2) extending from the inner end to the outer end and the longitudinally extending X-axis (See Figure 2); and means to support the retention pin (46) and reciprocally moving the retention pin into the recess to capture the trigger guard of the handgun (12) therein and preventing removal therefrom (column 2, lines 29 – 31 & column 2, lines 56 – 61). See Figure 2.

Regarding claim 5, Tilley further discloses the inner end of the retention pin (53) is beveled toward the top end of the holster. See Figures 2 & 4.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3, 4, 7 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Perry (U.S. Patent Number 4846384). Tilley discloses the sliding actuator (74) (column 4, line 54) (See Figures 1 & 2).

However, Tilley does not disclose the actuator is wedge shaped.

Perry teaches the actuator is wedge shaped (30) (See Figures 1 – 3, 6 – 7 & 9) for the purpose of providing reliable and durable inexpensive security capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sliding actuator wedge shaped as taught by Perry with the holster for handguns of Tilley in order to enhance reliable and durable inexpensive security capabilities.

Regarding claim 4, Tilley discloses the first spring means (52) contacting the retention pin (46) (See Figure 4) and spring loaded the retention pin (46) in

the direction to capture the handgun (12) trigger guard when it is positioned in the recess (column 3, lines 33 – 36). See Figures 3 & 4.

Regarding claim 7, Tilley further first safety lock means (72) that prevent sliding movement of the sliding actuator (74) until the first safety lock means (72) is disengaged.

Regarding claim 8, Tilley disclose the first safety lock means (72) comprising the sliding mechanism (74) that must first be moved before the sliding actuator (74) can be pushed (column 5, lines 14 – 16). See Figure 2

Examiner notes that applicant is evoking 35 U.S.C. 112, 6<sup>th</sup> paragraph in claim 9, line 11 by reciting: “means for” releasing said first safety lock means.

Regarding claim 9, Tilley disclose the remote means (column 4, lines 55 – 60) to release the first safety lock means (72). See Figure 2.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Held et al., (U.S. Patent Number 5082318). Tilley discloses the sliding actuator (74).

However, Tilley does not disclose the sliding actuator having the tapered fork configuration.

Held et al., teaches the sliding actuator having the tapered fork configuration (See Abstract) (See Figure 1) for the purpose of providing additional strength.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the sliding actuator have the tapered fork configuration as taught by Held et al., with the holster for handgun of Tilley in order to enhance structural durable strength.

9. Claims 11 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tilley (U.S. Patent Number 5449103) in view of Beletsky (U.S Patent Number 5127566). Tilley discloses the invention substantially as claimed.

However, Tilley does not disclose the elongated safety strap having the first end and the second end and both of the ends are pivotally secured to opposite lateral side walls of the holster; the safety strap is pivotal from the first security position which inhibits removal of the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun to be withdrawn from the handgun.

Beletsky teaches the elongated safety strap (102) (See Figure 5A) having the first end and the second end and both of the ends are pivotally (111) secured to opposite lateral side walls (103) of the holster (100) (See Figures 5A & 5B); the safety strap (102) is pivotal (111) from the first security position which inhibits removal of the handgun (101) from the holster (100), to the second position



substantially free of the handgun (101) thus allowing the handgun (101) from the holster (100), to the second position substantially free of the handgun (101) thus allowing the handgun (101) to be withdrawn from the handgun (101) (column 8, lines 36 – 48) (See Figures 5a & 5B) for the purpose of providing user friendly security precautions and provide quick release.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elongated safety strap having the first end and the second end and both of the ends are pivotally secured to opposite lateral side walls of the holster, the safety strap is pivotal from the first security position which inhibits removal of the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun from the holster, to the second position substantially free of the handgun thus allowing the handgun to be withdrawn from the handgun as taught by Beletsky with the holster for handguns of Tilley in order to enhance user safety protection and incorporate quick readability.

Examiner notes that applicant is evoking 35 U.S.C 112, 6<sup>th</sup> paragraph in claim 12, line 20 by reciting: “means for” actuating pivotal motion of said safety strap.

Regarding claim 12, Tilley discloses the invention substantially as claimed. However, Tilley does not disclose the means to actuate pivotal motion of the safety strap.

Beletsky teaches the means (108) to actuate pivotal motion (111) of the safety strap (102) (column 8, lines 52 – 57) (See Figures 5A & 5B) for the purpose of providing adequate snug security and prevent loose fitting.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the means to actuate pivotal motion of the safety strap as taught by Beletsky with the holster for handguns of Tilley in order to enhance adequate snug security fitting.

Regarding claim 13, Tilley discloses the invention substantially as claimed. However, Tilley does not disclose the elongated safety strap having the first end and the second end and both of the ends having snap fastener means securing them to opposite sides of the holster to inhibit removal of the handgun from the holster.

Beletsky teaches the elongated safety strap (102) having the first end and the second end (See Figures 5A & 5B) and both of the ends having snap fastener means (1065 & 110) securing them to opposite sides of the holster (100) to inhibit removal of the handgun (101) from the holster (100) (column 8, lines 38 – 44) (See Figures 5A & 5B) for the purpose of providing quick and easy user friendly release capabilities.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the elongated safety strap having the first end and the second end and both of the ends having snap fastener means securing them to opposite sides of the holster to inhibit removal of the handgun

from the holster as taught by Beletsky with the holster for handguns of Tilley in order to quick and easy user friendly release capabilities.

Regarding claim 14, Tilley discloses the invention substantially as claimed. However, Tilley does not disclose the formed releasing element shaped to release at least one of the snap fastener means using the generally downward motion of the user's hand.

Beletsky teaches the formed releasing element shaped to release at least one of the snap fastener means using the generally downward motion of the user's hand for the purpose of providing user friendly ergonomic capabilities to reduce grasping release finger / hand pressures.

It would have been obvious to one having ordinary skill the art at the time the invention was made to make the formed releasing element shaped to release at least one of the snap fastener means using the generally downward motion of the user's hand as taught by Beletsky with the holster for handguns in order to enhance ergonomic functionality characteristics.

***Allowable Subject Matter***

Examiner notes that applicant is evoking 35 U.S.C. 112, 6<sup>th</sup> paragraph in claim 10, line 14 by reciting: "means for" identifying the authorized user of said holster.

10. Claims 2 & 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone

number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JES F. PASCUA  
PRIMARY EXAMINER

LLV  
June 22, 2006